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POL  
7448

**AGREEMENT**

**Between**

**Town of Evans, New York**

**And**

**Town of Evans Police Benevolent Association**

**January 1, 2002 – December 31, 2007**

**NEGOTIATING COMMITTEE**

**Town of Evans**

**Councilperson Karen Erickson**

**Councilperson Gifford Swyers**

**Evans Police Benevolent Association**

**Ernest Masullo, President**

**Thomas George Jr., Vice President**

**W. James Schwan, Attorney**

**Ninth Floor, Dun Building**

**110 Pearl Street**

**Buffalo, NY 14202**

**RECEIVED**

**JUN 07 2004**

**NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD**

20

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## **AGREEMENT**

This Agreement made the 23rd day of April, 2003, by and between the Town of Evans, New York, hereafter referred to as the "Town" and the Town of Evans Police Benevolent Association, Inc., hereafter referred to as "PBA".

### **ARTICLE I**

#### **SECTION 1.01      PURPOSE OF AGREEMENT**

Whereas, it is the intent and purpose of the parties, to set forth herein, the basic agreement covering wages and terms and conditions of employment to be observed between the parties hereto.

The parties agree that all negotiable items have been discussed during the negotiations leading to this Agreement and, therefore, negotiations will not be opened on any item, whether contained herein or not, until a new agreement is to be negotiated, unless stated otherwise herein.

#### **SECTION 1.02      LEGISLATIVE REQUIREMENTS**

It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefore shall not become effective until the appropriate legislative body has given approval.

### **ARTICLE II**

#### **SECTION 2.01      RECOGNITION**

The "Town" recognizes the PBA as the exclusive bargaining agent for all officers of the Town of Evans Police Department.

Included are all full time civil service police officers of the Town of Evans Police Department.

Excluded are the Chief of Police, Assistant Chief of Police, police clerks and part-time employees, as defined in this Agreement.

#### **SECTION 2.02      DEFINITIONS**

Except as otherwise stated in this Agreement, whenever used herein, the following terms shall mean:



"The Town" and "Employer" and "Management," each mean the Town of Evans, New York.

"The Board" means the Town Board of the Town of Evans, New York.

"Police Benevolent Association" or "Police Association" or "Association" or "PBA" shall each mean the Town of Evans Police Benevolent Association, Inc.

"Police officer" means a police officer, or police officers employed by the Town of Evans Police Department excluding part-time police officers, police clerks, dispatchers, Assistant Chief of Police, and the Chief of Police.

### **ARTICLE III**

#### **SECTION 3.01      DUES CHECKOFF**

Upon written authorization from a police officer, on a form provided by the PBA, the town will deduct from the salary of such police officer, in each pay-period, membership dues as the PBA may specify and the Town will transmit said sums, promptly, to the PBA, within 30 days after deduction has been made.

The Town agrees to deduct from the wage or salary of police officers, represented by the PBA, who are not members of the PBA, a sum equivalent to the dues levied by the PBA on its members, and such sums shall be transmitted by the Town, to the President or Treasurer of the PBA as set forth above.

The PBA has established and maintains a procedure providing for the refund to any non-member police officer, demanding the return of any part of such agency fee deduction, which represents his pro-rata share of the expenditures by the PBA in aid of activities or causes of a political or ideological nature, only incidentally related to terms and conditions of employment.

#### **SECTION 3.02      STRIKES AND LOCKOUTS**

During the term of this Agreement, neither the PBA nor any of its members shall:

Engage in or in any way encourage or sanction any strike or other action which shall interrupt or interfere with the orderly operation of the Evans Police Department; or

Prevent or attempt to prevent the access of employees to any department of the Town. The Town may suspend and later discharge any employee who violates any provision of this section.



### SECTION 3.03      SPECIAL MEETINGS

The Town may agree to meet with the PBA and confer on matters of interest, upon request by the PBA. The request will include the nature of the matters to be discussed and the reason for requesting the meeting. Discussion will be limited to matters set forth in the request, unless the parties agree otherwise and it is understood that such meeting shall not be conducted to renegotiate this agreement.

## **ARTICLE IV**

### SECTION 4.01      UNIFORMS AND MAINTENANCE

(a) The Town will provide all required uniform items for all new full-time police officers. The Town shall provide to all full-time police officers, any new uniform item which is required as an addition to or a replacement for the presently required uniform or any item thereof.

(b) The Town agrees to make all necessary replacement of worn or damaged uniform items, upon presentation of the same to the Town, after such is determined by the Chief to require replacement.

(c) The Town further agrees to furnish at no cost to the full-time police officer: gloves, handcuffs and work shoes, as required for the performance of duty, as determined by the Chief.

(d) The Town will pay each officer on or about the first pay-period in December of each year, which sum shall be pro-rated for an officer who is not employed for the full calendar year, as follows:

<u>RANK</u>	<u>Effective Jan 1, 2002</u>	<u>Effective Jan 1, 2003</u> - <i>Pete Smith Pro Rate</i>
	\$	\$
PO - 1 yr.	502.	522.
PO - 2 yr.	609.	633.
PO - 3 yr.	664.	691.
PO - 4 yr.	737.	767.
Detective	801.	834.
Lieutenant	818.	851.
Det. Lieutenant	850.	884.

Beginning on January 1<sup>st</sup>, 2004, the Town will pay each officer, including officers assigned as detective, an annual uniform maintenance allowance in the amount of \$475.00 or one-percent 1% of the officer's base pay in his/her respective rank and step, whichever is greater, on or about the first pay period in December of each calendar year.



(e) Officers assigned as detective will be paid an annual clothing allowance in the amount of:

Effective 1/1/02 the amount will be \$1,250 per year  
Effective 1/1/03 the amount will be \$1,450 per year  
Effective 1/1/04 the amount will be \$1,650 per year  
Effective 1/1/05 the amount will be \$1,850 per year  
Effective 1/1/06 the amount will be \$2,050 per year  
Effective 1/1/07 the amount will be \$2,250 per year

Payment shall be in the same manner as set forth in (d) above.

(f) Personal clothing, which is destroyed or damaged beyond repair in the performance of duty, shall be replaced, within reason, by the Town.

## **ARTICLE V**

### **SECTION 5.01      SENIORITY**

(a) Seniority will be based upon uninterrupted, full-time service in the department and shall be broken if an officer leaves active service for any period of time except authorized sick leave, military leave or authorized leave of absence.

(b) If more than one officer is appointed on the same date, the position on the civil service list will govern seniority.

(c) Probationary period will be determined by Civil Service Law. Probationary time means one year, unless otherwise prohibited by law.

(d) A newly appointed probationary officer shall be entitled to all benefits provided hereunder, except personal leave and life insurance, during the term of probation.

(e) Officers transferring from another police department will go to the bottom of the seniority list for the purpose of departmental seniority.

(f) The Town will provide a letter to counsel for the PBA indicating that the Town will comply with Town Law 153.

### **SECTION 5.02      SENIORITY IN RANK**

Seniority in rank will be determined by date of promotion to that rank and if more than one officer is appointed to that rank on the same date, then position on the





civil service list from which the officers were promoted will determine seniority. If there is no such civil service list and more than one officer is appointed to a rank on the same date, then the officers' seniority with the Town of Evans Police Department shall prevail.

#### SECTION 5.03      SENIORITY LIST

A current and up-to-date seniority list of all officers in the department, by rank and standing, will be made available for examination by all officers on the first date of each year, or within a reasonable time thereafter.

#### SECTION 5.04      REDUCTION IN STRENGTH

(a) If, at any time, there should be a reduction in the number of regular full-time officers, due to a lack of work, a discussion will be held with the PBA. Similarly, if and when there is an increase in the number of officers, after a layoff, recall shall be in accordance with Civil Service Law.

(b) Reduction in the number of positions in any rank and increase in the number of positions in any rank, while there are officers who have been demoted (other than for cause) or laid-off from that rank, shall be made in accordance with the applicable provisions of the Civil Service Law.

(c) A notice of recall must be sent to the police officer who has been laid-off, by registered or certified mail or by telegram, addressed to the officer at his most recent address, according to the Town's records. It is the responsibility of the officer to give the Town written notice of all changes in address.

### **ARTICLE VI**

#### SECTION 6.01      SALARIES

(a) Lieutenants will keep a minimum of 11% base pay difference between Patrolmen and Lieutenants.

(b) Detectives will receive, a one time only, upgrade of \$1,500 added to their base pay, which has been added to the computation below.

(c) Officers will be paid the following annual salaries:



<u>RANK</u>	<u>1/1/2002</u>	<u>1/1/2003</u>	<u>1/1/2004</u>	<u>1/1/2005</u>	<u>1/1/2006</u>	<u>1/1/2007</u>
	\$	\$	\$	\$	\$	\$
PO – 1 yr.	34,173	35,713	37,814	39,978	42,208	44,504
PO – 2 yr.	41,226	42,978	45,297	47,686	50,147	52,681
PO – 3 yr.	44,879	46,740	49,172	51,677	54,257	56,915
PO – 4 yr.	49,700	51,706	54,287	56,946	59,684	62,505
Detective	53,946	56,079	58,791	61,585	64,463	67,427
Lieutenant	55,167	57,394	60,259	63,210	66,249	69,381
Det. Lt.	57,131	59,360	62,171	65,066	68,048	71,119

(b) Patrol officers shall progress to the next higher salary step on the anniversary date of hire.

#### SECTION 6.02      COURT PAY

(a) The Town will compensate police officers for required court appearances during non-scheduled working hours at their regular hourly rate of compensation with a minimum payment of three hours to be paid for each court appearance within the geographical boundary of the Town of Evans. Officers shall be paid a minimum payment of four hours pay for court appearances outside the geographical boundary of the Town of Evans.

(b) Police officers shall be entitled to the applicable minimum court pay in the event they are not notified at least four hours prior to their scheduled court appearance time, of an adjournment or other disposition.

(c) Court appearance time shall not be considered as overtime payment or time worked, for overtime pay nor holiday pay.

(d) JURY DUTY. When an officer is required to serve on jury duty, the day will be scheduled as a regular day of work. If the jury duty falls on his regular day off, the officer will be scheduled a different day off. No benefits will be lost while the officer is subject to jury duty.

#### SECTION 6.03      OUT-OF-RANK PAY

If an officer is required to work a full normal workday, in a position of higher rank, he shall be paid the daily rate of the position of that higher rank. The Chief of Police, Assistant Chief of Police, Lieutenant or the officer in charge shall make the designation to a higher rank.

#### SECTION 6.04      OVERTIME PAY



(a) Overtime pay shall be paid for all hours worked beyond a normally scheduled eight-hour tour of duty and for all hours worked beyond a regularly scheduled forty-hour work week, as authorized by the commanding officer.

(b) All overtime work shall be paid at the rate of time and one-half.

(c) Overtime work shall include briefing time, shift differential and longevity pay as contained herein.

(d) The Association will form a committee to meet with the Chief of Police to discuss equalization of overtime and the procedure utilized with respect to overtime call in.

(e) When officers are called in for overtime, they shall receive a minimum of two (2) hours pay at the officer's overtime hourly rate.

(f) Overtime Procedure

1) Equalization:

When overtime work is to be assigned to a full-time police officer, the opportunity to work overtime shall be equalized among police officers, and shall be based upon departmental seniority.

After the regular patrol list has been exhausted officers assigned to the detective bureau shall be called for overtime.

2) Right of Refusal:

Overtime will be offered to those police officers meeting the qualifications for the duty required (i.e., rank and unit as appropriate) as determined by the Chief of Police or his designated representative.

Refusal will be verbal by the police officer only.

In the event the police officer verbally refuses overtime, he will be credited for purposes of equalization with the number of hours for the shift refused as follows: Regular shift -8 hours; Court Bailiff -4 Hours; Accident Investigation Unit -4 Hours; Marine/Dive Unit-4 Hours.

In the event there is no refusal by the police officer (i.e., answering machine, no answer, phone answered by family member), the police officer will not be credited for purposes of equalization with the number of hours for the shift refused as indicated in the preceding paragraph.



### 3) Recording of Overtime:

All overtime worked will be logged by each hour worked including holdover time and special detail assignments.

The calculations of overtime will commence new, January 1<sup>st</sup> of each year.

### 4) List of Overtime:

A list will be kept by the department for purpose of recording overtime and for the calendar year. The police officers will be assigned a numeric code for rank and unit eligibility, indicated as follows:

- |                                |                                   |
|--------------------------------|-----------------------------------|
| 1- Lieutenant                  | 5- Dive Team Leader               |
| 2- Patrolman                   | 6- Certified R/R Diver            |
| 3- Accident Investigation Unit | 7- Tenders & Shore Dive Personnel |
| 4- Unit #52, Marine Rescue     |                                   |

Any change in this procedure for overtime will be worked out and agreed to by both the Town and the PBA.

(g) If a non-scheduled overtime shift becomes available, full-time officers will first be called to fill the shift before a part-time officer.

(h) Show-up time and report writing time are to aid the administration and regulation of the police department and payment for such time shall be at straight-time rate and not computed as overtime, except when an officer is called in for an overtime shift, then show-up time will be calculated as overtime.

## SECTION 6.05      LONGEVITY PAY

(a) Each officer shall be paid the following non-cumulative longevity pay yearly:

<u>SERVICE</u>	<u>Days to be paid</u>	<u>Hours to be paid</u>
Upon completion of 5 years	3.0	24.0
Upon completion of 10 years	4.0	32.0
Upon completion of 15 years	5.0	40.0
Upon completion of 20 years	6.0	48.0
Upon completion of 25 years	7.0	56.0



Upon completion of 30 years

7.5

60.0

Longevity pay will be based on appropriate hourly rate of pay for that year.

(b) Longevity pay shall be paid in a lump sum, within a reasonable time after the officer's anniversary date.

#### SECTION 6.06      OFF-DUTY ARRESTS

Officers will be paid for time spent for booking and court appearance as a result of off-duty arrests, unless the officer is paid by another source.

#### SECTION 6.07      SHIFT PREMIUM PAY

In addition to other salary, officers shall be paid shift premium pay as follows:

Third Shift (afternoon) - \$.50 per hour for each hour worked

First Shift (nights) - \$.50 per hour for each hour worked

#### SECTION 6.08      RATE OF PAY

The hourly rate of pay shall be obtained by dividing the annual salary by 2080. The hourly rate of pay shall apply to all hours worked over eight (8) and over forty (40). For the purpose of computing the hourly overtime rate, longevity, shift differential and briefing time shall be included when an officer is called in to work an overtime shift. *shift - under Applicable*

### **ARTICLE VII**

#### SECTION 7.01      WORK DAY AND WORK WEEK

(a) A normal workweek shall consist of forty (40) hours, including meal periods. A normal workday, for each officer, shall consist of eight (8) consecutive hours, including meal periods. Due to the problems surrounding around-the-clock schedules, some officers may not work a normal work schedule. Each officer shall be entitled to a thirty (30) minute lunch break in each eight (8) hour tour of duty.

(b) The Town will have a maximum of two relief officer positions. Due to officer safety, the Chief of Police will make every effort to give relief officers sixteen (16) hours off between each tour of duty.

(c) When a work shift becomes available due to retirement, death, resignation, promotion, leave of absence, etc., the Town will re-bid the work schedule as soon as possible.



(d) Shifts will be as follows:

7:00 a.m. – 3:00 p.m. and 8:00 a.m. – 4:00 p.m.  
3:00 p.m. – 11:00 p.m. and 4:00 p.m. – 12:00 a.m.  
11:00 p.m. – 7:00 a.m. and 12 Mid – 8:00 a.m.

or other special schedule as needed, as determined by the Chief of Police.

(e) Bids for work shifts shall be made once a year, based upon seniority. Posting for work shift preference shall be made November 15, for a thirty (30) day posting period. The shift schedule bid process shall be closed on December 15<sup>th</sup> of each year, and the new schedule shall be effective as of January 1, each year.

#### SECTION 7.02      BIDDING OF TEMPORARY SHIFTS

Bidding of temporary shifts shall be as follows:

In the event a temporary shift becomes available on a tour of duty, as the result of vacation or extended sick leave by an officer, and such temporary shift lasts for a period or two weeks or more, that tour may be bid by patrol officers only under the following guidelines:

(a) It is the responsibility of the police officer, bidding such shift, or the PBA, to identify the shift from the posted vacation schedule or from the absence of personnel and to notify the Chief of Police not later than two weeks before the posting of the schedule for that shift.

(b) The most senior officer, who has requested assignment to that shift within these guidelines, shall be assigned to that shift, whenever possible.

(c) Any officer who has requested assignment to a shift may be assigned to relief shift for the duration of the shift period and may be subject to further shift assignment change encompassed under the relief shift.

(d) Bidding for temporary shift shall apply only to the rank of patrol officer.

#### SECTION 7.03      SWAPPING SHIFTS

Officers will be allowed to exchange shift assignments (swap shifts) with the approval of the Chief of Police. The swap will be done under the following guidelines:

(a) No overtime benefits shall accrue as a result of the swap.



(b) The swap for both parties will occur in the same pay period.

#### SECTION 7.04      BRIEFING OR SHOW-UP TIME

(a) Officers will show-up for duty fifteen (15) minutes before the start of their regular scheduled shift.

(b) Briefing or show-up time is to aid the administration and regulation of the department and compensation for such time shall be at straight time pay X 260 days and not to be computed as overtime. No pay adjustment will be made, on this computation. However, if an officer is required to work more than fifteen (15) minutes before his regular shift or beyond the end of the regular shift, such time worked will be considered overtime and compensated at the rate of time and one-half.

#### SECTION 7.05      NUMBER OF MEN PER SHIFT

There will be a minimum of three (3) uniformed police officers working on each shift, two (2) patrol officers, one (1) lieutenant, or any combination thereof excluding the Assistant Chief of Police.

#### SECTION 7.06      TRANSPORTATION

Motor vehicle pick-up of officers at the officer's home shall continue and shall be subject to the control of the Chief of Police. Such control shall include the right to terminate pick-up of individual police officers.

#### SECTION 7.07      PART-TIME/SEASONAL POLICE OFFICERS

The Town agrees not to hire or have available for work, any more than (5) five part-time/seasonal police officers at any given time. Part-time/seasonal police officers may only be used to supplement full-time police officers. Full-time police officers should be afforded the opportunity to work special details before part-time officers are afforded said opportunity. Examples: Fourth of July, special details, special radar details.

### **ARTICLE III**

#### SECTION 8.01      GRIEVANCE PROCEDURE

A grievance under this Article, shall mean any claim by either party or by an officer or group of officers, of a violation, misinterpretation or an inequitable application of any provision of this Agreement or a term and condition of employment.



STEP 1: Any officer, believing he has a grievance, may present it, in writing, to the Chief of Police within ten (10) days of the occurrence in an attempt to adjust the matter. If it is not satisfactorily adjusted, the officer may request a representative of the PBA meet with the Chief of Police and with the aggrieved party for the purpose of attempting to adjust the matter.

STEP 2: Should the discussion in STEP 1 fail to produce a satisfactory settlement within five (5) days, then a written report of the dispute shall be made by the PBA grievance committee and the report shall be forwarded within ten (10) calendar days to the Town Board or its representative. The Town Board or its representative shall discuss the grievance with the grievance committee within twenty-five (25) calendar days of receipt of the written report. The town will reply, in writing, to all grievances filed by persons covered by this agreement.

STEP 3: In the event the grievance is not satisfactorily settled within the time set forth in STEP 2, either party may take the matter to arbitration by sending a written notice to the other party of intention to do so. The notice shall be served within thirty (30) calendar days after the close of discussions and if neither party files such a notice, the matter shall be considered closed and not subject to further review.

The arbitration proceedings shall be conducted by an arbitrator selected by the Town and the PBA, within thirty (30) days after notice has been given and from a panel of arbitrators supplied by the New York Public Employment Relations Board.

The decision of the arbitrator shall be final and binding on both parties and the arbitrator shall issue his decision within thirty (30) calendar days after the conclusion of testimony and argument. The arbitrator shall not have the power to amend, modify or delete any provision of this Agreement.

Expenses of arbitration services and the proceedings shall be borne equally by both parties. However, each party will be responsible for compensating its own representatives and witnesses. Officers who appear during work hours will not suffer loss of salary. If a party desires a record of the proceedings, it may cause such a record to be made at its own expense, but it must provide a copy of the record to the other party and to the arbitrator without charge.

#### SECTION 8.02      GRIEVANCE COMMITTEE

The PBA will be allowed to name one individual, per shift, as a grievance representative and this officer will be granted such time, as reasonably required, to investigate grievances. Reasonable advance notice shall be given to the head of the department or his representative, stating in brief, the reason for such



absence.

## **ARTICLE IX**

### **SECTION 9.01      HOLIDAYS**

(a) Each police officer shall be given compensatory time-off, or be paid the value of the following holidays, whether the officer works the holiday or not:

New Year's Day	Columbus Day
Patriot' Day	Veteran's Day
Good Friday	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Fourth of July	Christmas Day
Labor Day	Day Before Christmas
Martin Luther King	Election Day

(b) Each police officer shall have the option of being paid the value for Martin Luther King and Election Day, whether the officer works the holiday or not, or receiving a compensatory day for either or both holidays.

(c) Each police officer shall notify the Chief of Police as to the holidays he elects to be paid for and the holidays he elects for compensatory time-off, during the next year. Choice can be made December 1st for the next year and June 1<sup>st</sup> is the last date to elect in that year.

(d) Such time-off may be granted on consecutive days but not more than five (5) consecutive days, at one time, subject to scheduling and approval by the Chief of Police.

(e) An officer who works the following listed holidays shall be paid at the officer's overtime hourly rate for all hours worked:

New Year's Eve	Thanksgiving Day
New Years Day	Day after Thanksgiving
Memorial Day	Day before Christmas
Fourth of July	Christmas Day

## **ARTICLE X**

### **SECTION 10.01      VACATIONS**

(a) A police officer who has completed the period of continuous



service, based upon original employment date as indicated in the following table, in any calendar year during the term of this Agreement shall receive a vacation corresponding to the period of continuous service as shown:

<u>Period of Service</u>	<u>Vacation Time, With Pay</u>
After 1 year	2 weeks
After 3 years	3 weeks
After 5 years	4 weeks

(b) At the completion of their twentieth (20) year of service police officers shall have one (1) additional day of vacation available for each year of service thereafter with a maximum of twenty-five (25) days total as show

<u>Period of Service</u>	<u>Vacation Time, With Pay</u>
After 20 years	4 weeks, 1 day
After 21 year	4 weeks, 2 days
After 22 years	4 weeks, 3 days
After 23 years	4 weeks, 4 days
After 24 years	5 weeks

(c) Officers will be paid for any unused vacation days at the end of the calendar year. The payment will be made in the last pay period in December of each year.

(d) Each police officer at the time of retirement, termination, resignation or discharge shall be paid the value of any unused vacation time. The payment shall be made within four (4) weeks of the officer leaving service.

#### SECTION 10.02 VACATION PAY ADVANCE

Upon written request, at least twenty (20) days prior to vacation time, a police officer will be paid the estimated sum due him for his vacation time-off, not later than the Friday before the officer begins his vacation.

#### SECTION 10.3 VACATION SCHEDULING

(a) Vacation may be taken at any time within the calendar year subject to approval by the Chief of Police, except that officers will be limited to two (2) weeks of vacation time-off during July and August.

(b) Vacation will be granted, as is possible, at times requested by the officer, but the determination to grant vacation leave and to change such allotment is reserved by the Chief of Police, in order to insure the orderly operation of the police department. Vacation may be taken one day at a time,



upon approval by the Chief of Police.

(c) Not more than two (2) patrol officers of the same rank will be granted vacation leave at the same time, except that officers on different shifts may be granted vacation, at the same time, if approved by the Chief of Police.

(d) For purpose of this Article, there will be two (2) separate vacation schedules; one for patrol officers and the other for lieutenants. The officer with the most time in service, in rank, will be given preference in selection.

## **ARTICLE XI**

### **SECTION 11.01     BEREAVEMENT LEAVE**

(a) Upon request of a police officer, a leave of absence not to exceed five (5) days shall be granted because of death in his immediate family. Such leave will be granted without loss of pay or other benefits and shall begin upon notification of death. Immediate family, for the purpose of this section, shall mean: parent, mother-in-law, father-in-law, spouse, child, stepchild, brother, sister, brother-in-law, sister-in-law.

(b) In the event of death of a grandparent, grandchild, son-in-law or daughter-in-law, a police officer will be entitled to not more than two (2) consecutive days off which shall include the day before and the day of the funeral. Such officer shall be paid for the time-off, provided such time falls on a regularly scheduled workday.

(c) In the event of death of an aunt, uncle, niece, nephew or first cousin, the officer will be granted one (1) day of bereavement leave, for which he will not suffer loss of pay or other benefits.

## **ARTICLE XII**

### **SECTION 12.01     PERSONAL LEAVE**

(a) Subject to scheduling and the approval of the head of the department or his designee, each officer is allowed four (4) personal leave days, each year, without loss of pay. Personal leave shall not be denied if request is submitted twenty-four (24) hours in advance, part-time/seasonal officer(s) are available, and/or an officer is available to work overtime. Emergency requests will be honored.

(b) In the event an officer does not use his personal leave days, such days shall be added to the officers' accumulated sick leave, in the next



year.

## **ARTICLE XIII**

### **SECTION 13.01     SICK LEAVE**

(a) Each police officer shall accumulate one and one-quarter sick days, per month. Each police officer shall accumulate one (1) additional sick day at the end of each calendar year for a total of sixteen (16) sick days per year, to a maximum accumulation of one hundred and fifty (150) days.

(b) This sick leave shall be cumulative, which means the accumulation of all unused sick leave that an officer shall have to his credit as of the effective date of this Agreement.

(c) Officers who are absent from work due to disability arising from injuries sustained in the course of employment, shall continue to accumulate sick leave at the regularly prescribed rate, during such absence as if they were on duty subject to the maximum accumulation.

(d) Officers who have accumulated one hundred-fifty (150) days shall receive their regular rate of pay for all unused sick-leave days credit which are not used, and which exceed the one hundred fifty (150) days.

(e) An officer who is absent from duty due to illness shall report the reason, therefore, to the supervisor, before the time to report to work.

(f) If an officer is fully vested under the current retirement plan and becomes disabled, the Town will make every effort to obtain a written notice from the officer regarding his intention to return to active duty. If the officer elects not to return to duty and if the Town desires to fill the vacancy, it will be free to do so.

(g) If an officer indicates he intends to retire after at least twenty (20) years of service or leaves on a disability retirement, the officer will be eligible to be paid the value of accumulated sick days.

(h) Should an officer die before retirement or resignation, the Town will continue to provide the same health insurance coverage for the officer's spouse/family under section 15.02 and 15.03 for twenty (20) years or until the youngest child reaches a certain age as defined by the health care provider. However, if the officer's spouse/family is provided with equal or better coverage at no cost to the officer's spouse/family or the spouse remarries and obtains equivalent coverage, the obligation of the Town to provide this insurance will be suspended during that period of time. The suspension of the insurance coverage will terminate when and if the other health insurance which was provided to the



officer's spouse/family is no longer then provided them without expense.

(i) If the Town decides there is cause to believe that an officer is a malingerer and abuser of sick leave, the Town may compel the officer to produce a physician's note regarding the officer's ability to return to duty. Prior to this, the following must be accomplished:

(1) When an officer is notified by the Town of any action that the Town may take against the officer, the PBA shall receive a true copy of all papers served on the officer.

(2) The Town may request a physician's statement from any employee returning to work after an illness or injury requiring said officer to utilize three or more continuous days of sick leave. Where the Town believes that sick leave has been taken for an unauthorized purpose, the affected officer shall be notified and shall be given reasonable time within which to supply the Town with information or evidence, including a physician's statement, which he or she believes establishes their claim for the sick leave. Thereafter, with regard to the sick leave, the Town may take whatever action it wishes consistent with the terms of this agreement.

#### SECTION 13.02     HUMANITARIAN CLAUSE

(a) If an officer becomes physically or mentally disabled to such an extent that the officer cannot perform his regular duties, the Town will make an effort to place the officer in a job which the officer is physically and mentally able to perform. In so doing, the Town will attempt to place the officer in a position which will pay the officer a salary as close as possible to the officer's previous salary.

(b) If an officer dies while employed by the Town, the officer's family shall receive payment for the following from the Town:

(1) All unpaid wages due to the officer;

(2) All unused vacation time, personal leave time, sick time, and compensatory time;

(3) The prorated share of any clothing allowance due to the officer;

(4) The prorated share of the officers' longevity pay. (The formula will be based on a 12-month period, i.e. if an officer's anniversary is January and he dies in July, his prorated share will be 6/12th.);

(5) The amount of cash from the officer's sick time at the



daily rate at the time of the officer's death.

## **ARTICLE XIV**

### **SECTION 14.01     EXPENSES**

(a) A police officer who is required to leave the Town as part of his official police duty shall be reimbursed for all actual and necessary expenses which may be incurred in the performance of his duty.

(b) A police officer on official police business, will whenever possible, be provided with transportation by the Town. In the event the officer is required to use his own vehicle on police business, the officer shall be paid at the current mileage rate for each mile driven.

## **ARTICLE XV**

### **SECTION 15.01     LIFE INSURANCE**

The Town will provide a \$25,000 life insurance policy insuring each police officer at no cost to the officer.

### **SECTION 15.02     HEALTH INSURANCE**

(a) The Town will provide for each officer, health insurance coverage under the Blue Cross and Blue Shield traditional plan. Blue Cross hospital 42/43 with riders: R8-dependant children to age 23, R-45, R-47, R-48. Blue Cross medical surgical 60/61 select with riders: R-8 dependent children to age 23, R-21 psychiatric, R-45, R-47, R-48. Major Medical riders: BCMM-7 rider FF and BCMM-7 rider-8 \$100 deductible. Drug riders: Rx rider-c, Rx rider-8 each \$5.00 co-pay. The Town will pay the full cost to provide such coverage for each officer and his family.

(b) The Town will also provide as an option to each officer, required by law, health maintenance organization (HMO) plan or plans. In the event the cost of such plan, providing comparable coverage to that set forth in subparagraph (a) above is greater then the cost of the said Blue Cross-Blue Shield Traditional Plan, the officer shall reimburse the Town of such difference.

(c) For employees who have Blue Cross-Blue Shield Traditional coverage as of July 7<sup>th</sup> 1998, those employees may retain that coverage at no cost to the employee. Any employee with grandfathered Blue Cross-Blue Shield Traditional who converts to Community Blue #1 by January 1, 2002 shall receive payments of \$1,400 in 2002, \$1,450 in 2003, \$1,500 in 2004, \$1,550 in 2005, and \$1,600 in 2006. The payment shall be made in the 13<sup>th</sup> payroll of the year.



The conversion will be final. Any employee who reverts back to Blue Cross-Blue Shield Traditional shall pay the difference in cost between Blue Cross-Blue Shield Traditional and Community Blue #1.

(d) Any employee who has Community Blue #1 coverage and who retires from the Town between July 7<sup>th</sup>, 1998 and December 31<sup>st</sup>, 2001, shall have the option to convert their coverage to Blue Cross-Blue Shield Traditional coverage at the next enrollment period (language per paragraph a. of this section). Any employee who has converted from Blue Cross-Blue Shield Traditional to Community Blue #1 and who has received the payments set forth herein who converted back to Blue Cross-Blue Shield Traditional coverage, shall be required to pay the difference in cost from the base plan.

(e) Effective August 1<sup>st</sup>, 1998, the health insurance offered by the Town will be Community Blue #1 coverage, with dependent to age 23 and a \$5.00 co-pay prescription plan (exact plan to be spelled out in appendix to the CBA).

(f) The Town shall have the right to provide each of two employees, married to each other and without dependents, with single person coverage when the coverage provides the same or superior benefits than would be available under a family plan.

(g) Officer hired on or after July 7, 1998, will pay a portion of their health insurance premium in an amount equal to 15% of such premium to the Town for the first five years of his employment. This payment will cease after five years of employment. At the officer's option, said amount may be divided and deducted among the bi-weekly paychecks or be deducted under the new pre tax payroll deduction upon written authorization.

Officers hired on or after the signing date of this new C.B.A. will pay a portion of their health insurance premium in the amount equal to 15% of such premium to the Town for the first five years of his employment. Thereafter the employee shall pay 10% of such premium to the Town

(h) The Town may change health insurance carrier or carriers provided the benefits are at least equivalent to that set forth in sect. 15.02 a & b and the issue of equivalent coverage is agreed to by the PBA. In the event such agreement is not had, the issue shall be submitted directly to arbitration pursuant to the grievance procedure herein. In the event there is no agreement, the Town may not change the carrier or carriers pending the result of arbitration.

(i) Should the premiums paid by the Town for health insurance pursuant to sect. 15.02 (a & b) increase by more than twenty-five percent (25%) in a calendar year, the parties agree to negotiate over the amount of the said increase. It is understood by the parties that should such negotiations not result



in an agreement, that the impasse procedures including interest arbitration, of the Civil Service Law of the State may be resorted to. The words "premiums paid by the Town for health insurance" as used in this sub—paragraph, shall mean premiums actually paid by the Town in a calendar year and shall not include rate increases authorized but not yet in effect.

(j) The Town may elect to amend the coverage provided in Section 15.02 (a) to include a \$250 in-hospital-stay deductible, known as rider (c). In the event of such, the amount of the in-hospital-stay deductible shall be self-insured by the Town. An employee incurring any portion or the entire amount of said in-hospital-stay deductible shall be reimbursed by the Town immediately upon presentation to the Town, proof of said deductible being paid. A copy of the hospital bill shall satisfy as such proof. The employee may delete from the bill or other proof submitted, any reference to diagnosis, treatment or prognosis.

Should the Town elect the option afforded it under this paragraph, it shall first give thirty (30) days written notice of such election to the PBA. At the effective date of such election, any then present officers who had previously thereto opted for health insurance to be provided by a health maintenance organization (HMO) shall suffer no additional increase in their contribution toward the HMO premium cost per 15.02 (b), as a result of the Town's election, so long as these officers remain in the HMO. The Town shall have the option to terminate or cancel said in-hospital-stay deductible rider and shall give the PBA prior notice of its exercise of this option. In the event the Town should exercise this option to cancel or terminate the rider, the coverage as set forth in Section 15.02 (a) shall be maintained.

(k) Officers who subsequently retire pursuant to the provisions of the New York State Retirement and Social Security law shall continue to receive from the Town, for life, all health insurance which was provided the officer at the time of retirement.

Retired officers will pay a portion of their health insurance premium in the amount equal to 10% of such premium to the Town. However, if such retired officer is provided with equal or better insurance coverage at the same cost to the retired officer, the obligation of the Town to provide this insurance will be suspended during that period of time. The suspension of the insurance coverage will terminate when and if the other health insurance, which was provided to the retired officer, is no longer then provided him.

(l) If a member is eligible to be covered under their spouse's medical/health insurance and they elect to do so, then the Town will pay the member \$1,400 effective 1/1/2002 in a separate check each year the officer is covered under their spouse's health insurance.

Effective 1/1/03 the amount will be \$1,450 per year





Effective 1/1/04 the amount will be \$1,500 per year  
Effective 1/1/05 the amount will be \$1,550 per year  
Effective 1/1/06 the amount will be \$1,600 per year  
Effective 1/1/07 the amount will be \$1,650 per year

(m) With the signing of this agreement, paragraph (m) will be eliminated and the accumulated sick days of the affected officers will be transferred to ARTICLE XIII, Section 13.01. All officers covered under this CBA will be governed by ARTICLE XIII, Section 13.01.

#### SECTION 15.03     DENTAL INSURANCE

The Town will provide for each officer current full dental and orthodontic coverage and the Town will pay the cost to provide such coverage for the officer and his family.

#### SECTION 15.04     OFF-THE-JOB DISABILITY

The Town will provide each officer with insurance off-the-job disability at its own expense. Copies of the applicable insurance policies and riders will be provided by the Town to the PBA.

### **ARTICLE XVI**

#### SECTION 16.01     RETIREMENT BENEFITS

(a) The Town will provide and maintain a non-contributory retirement plan of benefits for police officers, pursuant to the following provisions of the New York State Retirement and Social Security Law:

The benefits pursuant to Section 384-d, more commonly known as the 20-year Retirement Plan with 1/50th benefits.

(b) The Town shall make available to bargaining unit members the provisions of 384-e of the New York State Police and Fire Retirement and Social Security Law of the State of New York. The Town shall take all necessary steps to provide 384-e availability effective January 1, 2002.

(c) Effective January 1, 2002, the Town shall make available to bargaining unit members the provisions of 341-j (allowance for unused sick leave plan) of the New York State Police and Fire Retirement and Social Security Law.

### **ARTICLE XVII**

#### SECTION 17.01     PBA REPRESENTATIVES

(a) The PBA negotiating committee will be allowed, as required, to



negotiate a successor agreement to this contract.

(b) One (1) or two (2) officers, who are designated by the PBA, may attend meetings of the Police Conference of New York, Inc. and the Western New York Police Association, in pursuance of their profession as police officers. Attendance at these meetings shall be without loss of time or salary and total attendance time, of all officers, shall not exceed nine (9) workdays per year.

(c) Officers who will attend such meetings must give prior notice to the Chief of Police, indicating their desire to attend such meetings.

#### SECTION 17.02     BULLETIN BOARD

The Town will provide one (1) bulletin board at the police station which will be used, exclusively, for PBA notices.

### **ARTICLE XVIII**

#### SECTION 18.01     DISCIPLINARY ACTION

A police officer will be given a copy of any warning, reprimand, suspension or disciplinary action which is entered into his personnel record within three (3) days of the time the action was taken.

#### SECTION 18.02     RECORD OF COMPLAINTS

No record of reference to a complaint, either departmental or external, lodged against a police officer will be entered into his record if after investigation the complaint is decided by the Town to be unfounded.

#### SECTION 18.03     COPIES OF FILES

Nothing shall be placed in an officer's file unless the officer is provided the same.

#### SECTION 18.04     BILL OF RIGHTS

The Town of Evans Police Department and its members are given a wide range of powers and duties that involves them in all manner of contact in relationship with the public. Out of this contract may come questions concerning the actions of members of the department. These questions may require immediate investigation by the Chief or superior officers, as designated by the Chief of Police. In an effort to insure that these investigations are conducted in a manner which is conducive to good order and discipline, the following bill of rights are agreed to:

(a) This section shall not apply to criminal investigations.

(b) The interrogation of a member of the department shall be conducted at a reasonable hour preferably while the member of the department



is on duty, or if not on duty, during daytime hours, unless the circumstances of the investigation are extreme.

(c) An officer under investigation shall be informed of the name of the officer in charge of the investigation, and the name or names of the officer conducting the investigation or interrogation.

(d) An officer shall be informed of the nature of the investigation before any interrogation begins.

(e) Questioning of an officer shall be reasonable in length. Questioning shall also allow for personal necessities, meals, telephone calls and rest.

(f) An officer shall not be subjected to any offensive language, nor shall he be threatened with transfer, dismissal, or other disciplinary action as a means of obtaining information concerning the incident or incidents under investigation. No promise or reward shall be made as an inducement to answering questions. The provisions of this sub-paragraph shall not be construed as to prohibit the investigating officer from informing an officer that his conduct may be subject to other disciplinary action

(g) An officer shall be afforded the right to a PBA representative and/or an attorney present at any and all questioning, interrogation, or hearing; unless the officer waives such right, in writing. The officer shall be afforded the opportunity to an adjournment of any such interrogation, questioning, or hearing to consult with, or have such representative and/or attorney present.

(h) Any interrogation of a police officer for a disciplinary violation shall be recorded. No "off-the-record" questions or statements shall be made unless the officer agrees to such.

(i) An officer suspected in a criminal investigation must be advised of his constitutional rights. Any statement of an officer under investigation for disciplinary action shall not be used in any criminal proceeding unless the officer was first informed of his/her constitutional rights.

(j) An officer shall be provided with a copy of any statements made by him/her whether signed or otherwise and a copy of any recorded proceedings.

(k) An officer will not be given or coerced into taking a polygraph test, but he may of his own free will

(l) An officer will be given copies of any documents that are to be placed in his personnel record or file. The officer shall have the right to place in his personnel record or file any response or explanation to any such document.

(m) Should an external or departmental complaint made against an officer be determined to be unfounded or should the officer be exonerated, no record or reference to it shall be placed in the officer's file.

## ARTICLE XIX



## SECTION 19.01     IN-SERVICE TRAINING

(a) A Police officer who is required to attend in-service training, during his regular off-duty time shall be compensated for such time at the officer's hourly overtime rate of pay for all hours worked.

(b) The Town will notify all police officers, by posting, of law enforcement, educational and training opportunities which are offered by other departments or other police or educational agencies, so that officers who are eligible and who desire to attend may notify their superiors of their interest or desire. The Town will provide the same notice and opportunity as to training opportunities which are offered by the Town Police Department.

(c) A rotating list format shall be utilized to determine eligibility for attendance at educational and training opportunities. Every member shall be placed on the rotating list. Members who desire to be considered for selection for the posted opportunity shall affix their names to the notice. Except in instances where special qualifications are clearly necessary, seniority shall be the requisite. (For example, a prerequisite for Accident Reconstruction II will require that a member previously attended Accident Reconstruction I; or a specific training is needed for a particular shift.) Those members that possess the necessary pre-qualifications shall be given priority equally.

Members that express an interest in attending the educational training opportunity and are not selected shall resume their position on the rotating list. The member(s) that is/are selected will be placed at the bottom of the rotating list. If a member is selected, except for emergency circumstances, said member must attend the session(s).

Due to the different ranks, special divisions and needs within the department, it is understood that management will have to set special prerequisites other than the ones listed above. Exceptions will be at the discretion of management. When this occurs, management will notify the PBA.

Officers not selected will remain at the top of the list. After the selection process is complete, management will re-post the sign up sheet showing those officer(s) that were selected to go to school.

Management will develop a computer program to comply with section 19.01, paragraph (c).

Rotating list does not include part-time officers.

## SECTION 19.02     TUITION



The Town will pay the full cost of all tuition, books, and other school fees for all police officers who are authorized by the Town and who attend school or seminars relating to police science courses.

## **ARTICLE XX**

### **SECTION 20.01    MANAGEMENT RIGHTS**

(a) The Town shall have the right to make such directions, rules and regulations, as may be deemed necessary to the Town for the conduct and management of affairs of the Town. The PBA agrees that the officer shall be bound by and obey such directions, rules and regulations, insofar as the same do not conflict with the terms of this Agreement and insofar as such rule are made known and placed in a conspicuous place within the department headquarters, which is accessible to all officers.

(b) There is reserved, exclusively to the Town, all responsibilities, powers, rights and authorities, expressly or inherently vested in it, by the laws and constitutions of the State of New York and the United States, excepting where expressly and in specific terms, limited by the provisions of this Agreement.

(c) All of the authority, rights and responsibilities, possessed by the Town, are retained by it, including but not limited to, the right to determine the mission and standard of the service to be offered by the police department, purposes, objectives and policies of the board to determine the facilities for the conduct of the Town programs.

### **SECTION 20.02    SAVINGS CLAUSE**

If any section, sub-section, sentence, clause phrase or any portion of this Agreement is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions of this Agreement.

### **SECTION 20.03    TERMS OF AGREEMENT**

This Agreement, except as may be hereafter modified in writing by both parties, or except as otherwise specifically stated herein, is effective as of January 1, 2002 (retroactively) and will remain in force until December 31, 2007 or such time a subsequent agreement becomes effective

### **SECTION 20.04    ENTIRE AGREEMENT**



(a) This Agreement constitutes the entire agreement between the parties.

(b) The Town will make available, for each police officer, a copy of this Agreement.

#### SECTION 20.05 RENEWAL OF AGREEMENT

Negotiations for renewal of this agreement will commence on or about July 1, 2006 or such date as the parties mutually agree upon.

IN WITNESS WHEREOF, the parties have hereunto and hereunder set their hands and seals this \_\_\_\_ day of June 2003.

Ernest P. Masullo, President  
Town of Evans Police Benevolent  
Association, Inc.

Robert R. Catalino II  
Supervisor, Town of Evans

**MEMORANDUM OF UNDERSTANDING**  
**between the**  
**Town of Evans**  
**and the**  
**Evans Police Benevolent Association**

In the event of a consolidation and there is a signed agreement between the municipalities, the Town will have one year from the signing date of the consolidation agreement to employ seven (7) part-time/seasonal police officers. After one year of the signed agreement, the Town will revert back to five (5) part-time/seasonal police officers. In the event a consolidation agreement does not take place, this side letter of agreement will expire at the end of the CBA.

6-18-03  
Date

6-22-03  
Date

Ernest P. Masullo  
Ernest P. Masullo, President  
Town of Evans Police Benevolent  
Association, Inc.

Robert R. Catalino II  
Robert R. Catalino II  
Supervisor, Town of Evans